AMERICAN CAR RENTAL ASSOCIATION

P.O. Box 584
Long Lake, NY 12847

sfaulkner@acraorg.com
888.200.2795 Toll-Free

www.acraorg.com

April 25, 2017

Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue, N.W.
Suite CC-5610 (Annex A)
Washington, D.C. 20580

Re: Connected Cars Workshop and P175403 – Comments of the American Car Rental Association

Dear Sir or Madam:

The American Car Rental Association (ACRA) respectfully submits the following comments in response to the questions on "connected" and "autonomous" vehicles posed by the staff of the Federal Trade Commission (FTC) and the National Highway Traffic Safety Administration (NHTSA) in its March 20, 2017 notice. ACRA looks forward to working with the leaders and staff of the FTC and NHTSA in the future – including taking an active role at the June 28, 2017 Workshop – to explore and understand all aspects of the important questions surrounding the development and deployment of highly automated vehicles (HAVs).

Background on ACRA

ACRA is the national representative for over 98% of our nation's car rental industry. ACRA's membership is comprised of over 300 car rental companies, including all of the brands you would recognize such as Alamo, Avis, Budget, Dollar, Enterprise, Hertz, National and Thrifty. ACRA members also include many system licensees and franchisees, mid-size, regional and independent car rental companies as well as smaller, "mom & pop" operators. ACRA members have over two million registered vehicles in service, with fleets ranging in size from one million cars to ten cars.

Of particular importance to the FTC and NHTSA staff examining the development and deployment of HAVs over the next decade, ACRA members collectively buy one out of every eight new cars sold in the United States each year. In addition, ACRA members collectively buy – and sell – over 1.5 million cars every calendar year. These basic facts lead directly to the following current statements (which likely will remain true for the foreseeable future as HAVs are developed and deployed):

- ACRA members collectively own the largest fleet of passenger vehicles in the nation;

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- ACRA members collectively enter into over 50 million rental transactions with individuals each calendar year;

- With more than 15,000 locations nationwide, ACRA members are uniquely positioned above all other stakeholders with the geographic footprint to facilitate the charging, fueling, cleaning, parking, maintenance, toll / citation management, and customer service issues that relate to the deployment of HAVs on a national and global scale;

- To the extent that HAVs are deployed narrowly or widely in the coming years, many of these HAVs likely will be owned by car rental companies and rented to their customers; and,

- Apart from the relatively small group of consumers who will be able to afford the expected high prices for the early HAVs, the first interaction many individuals may have with HAVs may be through a rental of an HAV with a car rental company.

With this background, ACRA's comments in response to the questions posed will adopt a common theme – the questions asked by the FTC and NHTSA appear to pre-determine who the primary stakeholders will be in the development and deployment of HAVs over the next decade or two. And ACRA suggests that some of those pre-determinations may not be accurate.

ACRA's Answers to the Questions Posed

As an initial, overarching matter, ACRA's members are very interested in the uses to which data generated by HAVs may be used by the HAV's owner, including a car rental company. ACRA's answers to specific questions posed by the FTC and NHTSA below are an outline of ACRA's current views on these matters – views which likely will change, be refined and potentially expanded as the discussion on public policy challenges related to HAVs continue.

1. **What data do vehicles with wireless interfaces collect/store/transmit, and how is the data used and shared?**

This is in fact a quite complicated question to which ACRA will provide a detailed answer while seeking to organize some of the issues covered by this question – different types of information, ownership of the information, and uses of the information – in a coherent way for further public discussion.

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a. Types of Information

Looking into the future – five to fifteen years from now – when true HAVs are deployed widely throughout the passenger vehicle fleet in the United States (and across the world), ACRA suggests that the types of data collected, stored and transmitted by vehicles will be grouped into the following general categories:

- Personal information – personal information about the individual owner of the vehicle (to the extent the HAV is owned by an individual), or in many cases the current user of the vehicle, that is inputted into the vehicle by the individual owner or user and that does not directly impact the operation of the vehicle;

- Vehicle information – within the general subject of "vehicle information," there are actually three different types of information that is generated by an HAV, and sometimes the distinctions between this information may blur:

    - Vehicle information that is personal – where is vehicle is, while occupied by a user and linked to that user's personal device(s), is personal information;

    - Vehicle information that is not personal -- information inputted into the vehicle by the corporate owner of the HAV, such as a car rental company or other non-individual owner, as well as information generated by the vehicle's sensors, engine, electronics, navigation systems, and technology that directly impacts the proper, efficient and safe operation of the vehicle, is vehicle information that is not personal; and,

    - Dual information – could also be labelled "cross-over" or "hybrid" information -- information is vehicle-generated information that does not fit cleanly into either of the first two vehicle information categories, but that contains aspects of each, such as the vehicle location when associated with the efficient operation of a connected fleet.

b. Types of Stakeholders

Further, there are various "stakeholders" with varying degrees of interest in, ownership of, or control over the data and information collected, stored and transmitted by HAVs:

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- "hardware" manufacturers – typically known as "original equipment manufacturers" or OEMs, today – the OEMs are automobile manufacturers;

- "software" manufacturers – traditionally, software manufacturers have licensed their software to OEMs and OEMs have been responsible for proper operation of the software. This past standard may not continue with respect to HAVs. Instead, software manufacturers may own HAVs, operate network service platforms, and/or modify the products manufactured by traditional OEMs, thereby potentially shifting the responsibility and liability for the proper operation of the HAV in the future;

- "sensor" manufacturers – the sensors present in vehicles will multiply exponentially in HAVs to insure safe vehicle-to-vehicle and vehicle-to-infrastructure operation and communication; to what degree are the manufacturers of these sensors a new stakeholder with respect to HAVs that must be closely regulated by policy makers – much as tire manufacturers were not in the public policy spotlight until certain tires were linked to accidents by NHTSA in the early years of this century;

- network service operators –the role of this HAV platform provider, which may not fit neatly into past stakeholder categories, also must be examined by policymakers;

- vehicle owners – the concept of private ownership of a passenger motor vehicle may well be revolutionized by the deployment of HAVs across the world; many individuals may cease to own a vehicle – or multiple vehicles in a family -- and will instead contract for some or all of their transportation services through a commercial enterprise that owns HAVs and "rents" these vehicles to individuals.; and,

- vehicle users – the user of an HAV may also be revolutionized in the next decade or so, with individuals previously prevented or prohibited from owning or using a vehicle (children, certain disabled individuals, and some senior citizens) gain authorized access to the use of HAVs.

It is important to note that an individual or entity may simultaneously occupy more than one role for the purpose of information use – *i.e.*, a car rental company may be the owner of the HAV, the network service operator, and even the vehicle user at the same time. In such circumstances, the individual or entity should be permitted to access information associated with each of these roles.

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c. Ownership of Information

Given these myriad stakeholders, the question of which stakeholder "owns" or has access to data collected, stored and transmitted by the HAVs must be discussed and resolved. ACRA suggests that the following line should be drawn on this topic:

- Personal information – the information that an individual owner or user brings to, uploads into, synchs with, or inputs manually into an HAV is personal information and is owned by the user, who may or may not be the owner of the HAV; access to that personal information after the conclusion of the "rental" of the HAV by a user may be limited by the HAV owner;

- Vehicle information – is information the corporate owner brings to, uploads into, synchs with, or inputs manually into an HAV or is generated by the vehicle is owned by owner of the HAV, who may or may not be the hardware, software or sensor manufacturer or the network service operator.

d. "Cleaning" Personal Information from HAVs

If these lines are drawn with respect to access to different types of information, then the owner of the HAV must have readily accessible methods of "cleaning" the personal information from the HAV, much as a car rental company today "cleans" a vehicle after a rental in preparation for the next customer. Currently, it is difficult, if not impossible, to purge a user's personal information from a rental vehicle without rebooting or resetting the vehicle's entire information system. Such a "cleaning" method for personal information in HAVs with multiple users – perhaps a different user each hour – must be developed by the manufacturers of these vehicles.

e. Use of Information by Owner of HAV

Finally, ACRA suggests that the owner of an HAV may access and use information – personal, vehicle or dual – associated with a particular HAV for the following purposes:

- Locating the vehicle;

- Determining if a vehicle is being used in a manner not permitted by the owner (taken over an international border, driven off-road, or in violation of the use contract);

- If the owner owns multiple vehicles in a fleet of HAVs, for the purpose of efficiently operating its fleet (in the case of personal information, the owner may use only in the aggregate and may not disclose the personal information of any individual user);

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- With the informed or affirmative consent of the user (with respect to personal information), such as biometric, geolocation, or driving behavioral information; and,

- Identifying the safety condition of the vehicle.

2. How do these vehicles integrate data into their functionality? How do consumers benefit from the collection and use of their information?

ACRA has no information to offer to NHTSA and FTC on the first question.

With respect to the consumer benefit from collection and use of information, consumers will experience widespread benefits from information collection by HAVs. First and foremost, HAVs owned by fleet providers, such as car rental companies, will offer consumer efficient and cost-effective transportation services through an intelligent and demand-responsive – and even demand-anticipatory – system. Ideally, such transportation services would be offered to consumers in a way that can anticipate consumer demand and allocate different types of vehicles appropriately (where, when and what kind of vehicle to have available to meet user demand). In addition, some consumers may want a personalized transportation experience (vehicle temperature, pre-set entertainment options or restrictions, etc.) as an option when they rent an HAV.

Car rental companies regularly engage in this type of fleet allocation planning now to anticipate consumer demand. Whether that planning entails locating more mini-vans in Florida prior to Spring Break each year, positioning more sport utility vehicles with ski and snowboard racks at the Denver and Salt Lake City airports each winter, or maximizing the number of convertibles in a car rental fleet in California or Florida during peak travel times to those states – the planning needed to efficiently and cost-effectively respond to consumer demand for different types of HAVs is simply an extension of the fleet management planning already done by car rental companies every day.

Further, given that future rental of HAVs likely will be facilitated by a variety of electronic platforms that may or may not be owned or controlled by the fleet owner of the HAV, the sharing of data between these platforms and the HAV owner benefits consumers because the user need not repeatedly input the same information during one transaction.

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3. **What are the current roles of vehicle manufacturers, parts supplies, technology companies and other stakeholders in collecting data and ensuring security? How are these roles expected to evolve?**

ACRA's answer to this question will focus on "other stakeholders" such as car rental companies. Currently, car rental companies are uniquely positioned among all current stakeholders due to the fact that a car rental company has possession of virtually each vehicle in its fleet every few days, directly or indirectly perform most or all of the service on the vehicles in its fleet (including access to onboard diagnostics data), and interact on a daily basis with the users of its rental vehicles for immediate and accurate feedback on vehicle operation.

Looking into the future with the full deployment of HAVs, fleet owners, such as car rental companies, will continue to be positioned to gather far more vehicle data than a typical manufacturer of a portion of the vehicle due to the car rental company's regular possession of the HAV and will be positioned, based primarily on regular proximity to the vehicle, to enhance vehicle and user safety.

Again, as noted above, fleet owners, such as car rental companies, will be the most likely stakeholders in the future to provide users with the most efficient and cost-effective HAV transportation services as an alternative or supplement to traditional vehicle ownership.

4. **What are the vehicle manufacturers' privacy and security policies and practices? How are those policies and practices communicated to consumers? What choices are consumers given about how their data is collected, stored, and used. Who owns this data?**

ACRA is not qualified to respond to the first question under Question #4. However, ACRA's detailed response to Question #1 above addresses many of the other issues raised in Question #4.

Looking specifically at the car rental industry's stake in the collection, storage and use of HAV data, ACRA notes that presently there are no official industry "standards" with respect to personal information that is "left" with a rental car when the user has finished using the rental car. If a customer leaves a piece of tangible personal property behind in a rental vehicle upon returning it, car rental companies do their best to recover those items and return them to the customer if possible.

With respect to personal information or data, however, the answer is not as straightforward. When a car rental customer "synchs" his or her personal smartphone with the "infotainment" system in the rental car to enabled hands-free use or to listen to personal music choices through the vehicle's audio system, some personal information about that renter may be stored in the rental car's electronics at the end of the rental period.

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On a related topic, providing privacy notices to users through a vehicle interface, both for informational purposes and for the purposes of informed consent, as opposed to only online or during the "reservation" of the HAV, should be permitted and in fact encouraged.

As noted under Question #1 above, vehicle manufacturers have not yet provided car rental companies with an easy or uniform methodology to erase this personal information at the end of the vehicle rental – apart perhaps from rebooting the vehicle's entire infotainment system, including navigation and audio pre-sets. Such an easy and uniform means to erase a prior user's personal information – including remotely – would be a significant positive development in this area for owners of vehicle fleets used by many users. Without such a development, holding HAV owners, including car rental companies, responsible for securing a user's personal information recorded by the HAV would be inappropriate.

5. **What, if any, privacy and security harms can arise from connected vehicle manufacturers and their service providers' collection and use of data? What is the likelihood of such harms?**

ACRA suggests that this question be broadened to include all stakeholders with potential access to personal, vehicle and dual information – not just vehicle manufacturers and their networks of dealers and service centers. All future owners of HAVs will have some degree of access to personal, vehicle and dual information and all stakeholders should be involved discussions regarding privacy and security concerns.

It is ACRA's view that there are no unique threats posed by personal information collection and storage by HAVs that are any different than those posed by social media networking, online banking and personal connectivity with unencrypted Wi-Fi. The fact that these same risks exist gives rise to a concomitant duty that all stakeholders – and particularly HAV users – exercise the same or higher duties of care that are incumbent in other modern communications forums.

6. **What privacy and security issues might arise from consumer operation of connected vehicles, including use of third-party aftermarket products that can plug into vehicle diagnostic systems, geolocation systems, or other data-generating aspects of connected vehicles.**

Cybersecurity – and the ability of third-parties to interfere with the safe operation of an HAV – is a crucial issue to be addressed in connection with widespread HAV deployment. Users must have complete confidence in the HAV technology in order to avail themselves of this transportation service alternative.

In ACRA's view, the cybersecurity concern is present whether connectivity is achieved through original vehicle equipment or using aftermarket technology. Protections against

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cyber-hacking HAVs is essential to achieve the levels of service and consumer acceptance, as well as the safety and competition among service providers, promised by the widespread deployment of HAVs. ACRA encourages all stakeholders to come together on a consensus, non-proprietary cybersecurity technical solution for HAVs.

7. What evidence exists regarding consumer perceptions of connected vehicles and their data collection and use practices?

ACRA has no evidence to offer in response to this question.

8. What are the roles of the FTC, NHTSA, and other federal government agencies with regard to the privacy and security issues concerning connected vehicles?

ACRA encourages the FTC and NHTSA to take lead roles with regard to privacy and security issues associated with HAVs. Uniform federal standards for connectivity platforms, cybersecurity and technology will facilitate the safe, rapid and consistent deployment of HAVs. When compared to varied, inconsistent or actually contradictory state or private standards in these areas, federal leadership is warranted and needed in ACRA's view.

ACRA suggests that the FTC and NHTSA distinguish between informational security and operational security when examining security issues associated with HAVs. A user of an HAV might seek to "hack" into the HAV's information systems with nefarious or innocent intent, thereby creating an informational security risk. Alternatively, an attempt to "hack" an HAV's operational systems – as an act of mischief or with malevolent intent – would create an operational security risk. Each type of security risk must be addressed separately but comprehensively.

9. What self-regulatory standards apply to privacy and security issues relating to connected vehicles?

It is ACRA's position that self-regulation is not appropriate for safe, efficient and rapid deployment of HAVs. Self-regulation of HAV deployment would be the equivalent of employing analog technology in HAVs – the technical and safety challenges are simply too important to be left to self-regulation.

* * *

ACRA appreciates the opportunity to submit these comments to the FTC and NHTSA. ACRA encourages the FTC and NHTSA to consider these comments, as ACRA does, as the "starting point" for these questions (and not the end point). As this transportation technology revolution unfolds, and the public policy discussions associated with that revolution moves forward, the views of stakeholders (and even the role of various stakeholders or the introduction of new stakeholders) will change and evolve. As of today,

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these answers represent ACRA's collective thinking on these questions and are a summary, rather than a comprehensive treatise, in response to each question posed.

If ACRA's comments give rise to questions or suggest that additional exchanges of information would be beneficial, please do not hesitate to contact Greg Scott, ACRA's federal government relations representative, at 202-297-5123 or at gscott@merevir.com. ACRA and its individual member companies would be pleased to discuss these topics further with the leaders and staff of the FTC and NHTSA. ACRA looks forward to attending the June 28, 2017 Workshop and would be pleased to participate actively in the Workshop in a constructive way if asked by the FTC or NHTSA.

Sincerely yours,

Gregory M. Scott

cc: The Honorable John Thune
The Honorable Bill Nelson
The Honorable Greg Walden
The Honorable Frank Pallone